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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 JUAN PEREZ SANTILLAN,

11 Petitioner,

12 v.

13 KRISTI NOEM, *et.al.*

14 Respondents.

Case No. 3:25-cv-00633-ART-CSD

**Federal Respondents' Opposition to
Petitioner's Motion for Temporary
Restraining Order, ECF No. 2**

15 The Federal Respondents hereby submit this Opposition to Petitioner Juan Perez
16 Santillan's ("Petitioner" or "Perez Santillan") Motion for Temporary Restraining Order
17 and Preliminary Injunction (ECF No. 2). The Federal Respondents are amenable to
18 receiving a ruling on the papers and are willing to waive a hearing.

19 **I. Standard of Review**

20 A preliminary injunction is "an extraordinary remedy that may only be awarded
21 upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat'l Res. Def.*
22 *Council, Inc.*, 555 U.S. 7, 22 (2008). It is "never awarded as of right." *Id.* at 24. The moving
23 party must establish: (1) a likelihood of success on the merits, (2) irreparable harm, (3) that
24 the balance of equities tips in their favor, and (4) that an injunction serves the public
25 interest. *Id.* at 20. When the nonmovant is the United States, the last two factors "merge."
26 *Baird v. Bonta*, 81 F. 4th 1036, 1040 (9th Cir. 2023).

27 The Ninth Circuit employs a "sliding scale" approach to the four factors. *All. for*
28 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011) (quoting *The Lands Council v.*

1 *McNair*, 537 F.3d 981, 987 (9th Cir. 2008). If the moving party raises “serious questions”
2 going to the merits, the balance of hardships must “tip sharply” in his favor to secure a
3 preliminary injunction. *Id.* Even under the sliding scale approach, the moving party must
4 still show a likelihood of irreparable harm and that the injunction is in the public interest.
5 *Id.* at 1125.

6 **II. Argument**

7 **A. Petitioner Failed to Demonstrate That He Is Entitled to Any Injunctive Relief**

8 Petitioner’s motion should be denied because he has not established that he is
9 entitled to a temporary restraining order or a preliminary injunction. To prevail on a
10 motion for a preliminary injunction, a plaintiff or petitioner must “establish that he is likely
11 to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
12 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in
13 the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also Nken*
14 *v. Holder*, 556 U.S. 418, 426 (2009). Plaintiffs or petitioners must demonstrate a “substantial
15 case for relief on the merits.” *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011).
16 When “a plaintiff has failed to show the likelihood of success on the merits, we need not
17 consider the remaining three [*Winter* factors].” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th
18 Cir. 2015).

19 The final two factors required for preliminary injunctive relief — balancing of the
20 harm to the opposing party and the public interest — merge when the United States is the
21 opposing party. *See Nken*, 556 U.S. at 435. The Supreme Court has specifically
22 acknowledged that “[f]ew interests can be more compelling than a nation’s need to ensure
23 its own security.” *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v.*
24 *Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. Of California v. Orrin W.*
25 *Fox Co.*, 434 U.S. 1345, 1351 (1977); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211,
26 1220-21 (D.C. Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant
27 seeking injunctive relief “must show either (1) a probability of success on the merits and the
28 possibility of irreparable harm, or (2) that serious legal questions are raised and the balance

1 of hardships tips sharply in the moving party's favor.") (quoting *Andrieu v. Ashcroft*, 253
2 F.3d 477, 483 (9th Cir. 2001)).

3 **1. Petitioners Are Not Likely to Succeed on the Merits**

4 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740.
5 Petitioners cannot establish that they are likely to succeed on the underlying merits because
6 they are lawfully subject to mandatory detention under 8 U.S.C. § 1225 and Petitioners'
7 temporary detention does not violate due process.

8 As the Federal Respondents' Response to the Petition for Writ of Habeas
9 Corpus (ECF No. 14) demonstrates, the Petition cannot prevail and thus Petitioner is not
10 likely to succeed on the merits. The arguments set forth in the Federal Respondents'
11 Response to the Petition, ECF No. 14, are hereby incorporated by reference in their entirety.¹
12 The Federal Respondents note that ECF No. 14, in turn, incorporates by reference the
13 *Morales Rondon* Response (ECF No. 14-1). Accordingly, the arguments set forth in the *Morales*
14 *Rondon* Response are also hereby incorporated by reference in their entirety. For the reasons
15 set forth more fully in the Federal Respondents' Response and *Morales Rondon* Response, the
16 Petition cannot prevail and thus Petitioner has failed to demonstrate that he is likely to
17 succeed on the merits and is thus not entitled to any injunctive relief.

18 **2. Petitioner Failed to Show an Irreparable Harm**

19 To prevail on their request for injunctive relief, Petitioner must demonstrate
20 "immediate threatened injury." *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674
21 (9th Cir. 1988) (citing *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d
22 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is
23 insufficient. *See Winter*, 555 U.S. at 22. "Issuing a preliminary injunction based only on a
24 possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization
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26
27 ¹ The Court has endorsed the incorporation by reference of prior government filings in
28 related or substantively identical immigration habeas petitions, recognizing the efficiency of
unified briefing given the number of overlapping cases presenting identical questions under
8 U.S.C. § 1225(b)(2)(A) and § 1226(a).

1 of injunctive relief as an extraordinary remedy that may only be awarded upon a clear
2 showing that the plaintiff is entitled to such relief.” *Id.*

3 Petitioner has not shown that he will suffer irreparable harm in the absence of a
4 preliminary injunction. *See EEOC v. Astra USA, Inc.*, 94 F.3d 738, 743 (1st Cir. 1996).
5 “[I]rreparable harm is not assumed; it must be demonstrated.” *Narragansett Indian Tribe v.*
6 *Guilbert*, 934 F.2d 4, 6 (1st Cir. 1991). Petitioner’s generalized complaints of family
7 separation and the negative effects on his family are not enough to warrant injunctive relief.
8 *See* ECF No. 2, at 13. Because the type of harm Petitioner alleges “is essentially inherent in
9 detention, the Court cannot weigh this strongly in favor of” Petitioner. *Lopez Reyes v.*
10 *Bonnar*, 2018 WL 7474861 at *10 (N.D. Cal. Dec. 24, 2018). Indeed, “if detention during
11 removal proceedings constitutes irreparable harm in and of itself, nearly all habeas
12 petitioners would be entitled to injunctive relief.” *Abi v. Barr*, 2019 WL 2463036, at *2 (D.
13 Minn. 2019). Nor has Petitioner alleged any harm of a constitutional dimension. Here,
14 because Petitioners’ alleged harm is essentially inherent in detention, the Court cannot
15 weigh this strongly in favor of” Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK,
16 2018 WL 7474861, at *10 (N.D. Cal. Dec. 24, 2018).

17 **3. The Balance of Equities Does Not Tip in Petitioner’s Favor.**

18 The balance of equities and public interest weigh against granting a preliminary
19 injunction. It is well settled that the public and governmental interest in enforcement of the
20 United States’ immigration laws is extremely significant. *See, e.g., United States v. Martinez-*
21 *Fuerte*, 428 U.S. 543, 551-58 (1976); *Blackie’s House of Beef v. Castillo*, 659 F.2d 1211, 1221
22 (D.C. Cir. 1981) (“The Supreme Court has recognized that the public interest in
23 enforcement of the immigration laws is significant.”) (citing cases); *cf. Nken*, 556 U.S. at
24 436 (“There is always a public interest in prompt execution of removal orders: The
25 continued presence of an alien lawfully deemed removable undermines the streamlined
26 removal proceedings IIRIRA established, and permits and prolongs a continuing violation
27 of United States law.”) (internal quotation omitted); *Landon v. Plasencia*, 459 U.S. 21, 34
28 (1982) (“[I]t must weigh heavily in the balance that control over matters of immigration is a

1 sovereign prerogative, largely within the control of the executive and the legislature.”). As
2 the First Circuit has recognized, the “prompt execution of removal orders is a legitimate
3 governmental interest which detention may facilitate.” *Hernandez-Lara*, 10 F.4th at 32. This
4 strong governmental interest in ensuring appearance for removal proceedings and prompt
5 removal through mandatory detention pending removal proceedings thus outweighs the
6 Petitioner’s alleged hardships. Indeed, “[a]ny interference with . . . family integrity alleged
7 here was incidental to the government’s legitimate interest in effectuating detentions
8 pending the removal of persons illegally in the country.” *Aguilar*, 510 F.3d at 22. Thus,
9 even assuming Petitioner were likely to succeed on the merits of his claims (he is not), the
10 balance of the equities weighs heavily in favor of the government, and the Court should
11 decline to enter any injunction.

12 Moreover, “[u]ltimately the balance of the relative equities ‘may depend to a large
13 extent upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.*
14 *Kane*, Case No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at * 4 (D. Ariz. Dec.
15 13, 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)). Here, as explained above,
16 Petitioner cannot succeed on the merits of his claims as his detention is lawful and the
17 balancing of equities and the public interest weigh heavily against granting Petitioner’s
18 requested equitable relief.

19 III. Conclusion

20 For the foregoing, the Federal Respondents request that the Court deny Petitioner’s
21 Motion, ECF No. 2.

22 Respectfully submitted this 22nd day of November 2025.

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24 First Assistant United States Attorney

25 /s/ Christian R. Ruiz
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27 Assistant United States Attorney
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